

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ALBERT COX,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.:
)	
vs.)	
)	
COSTCO WHOLESALE CORPORATION,)	Removed from Gwinnett Co.
COSTCO WHOLESALE MEMBERSHIP,)	CIVIL ACTION
INC., JOHN DOE 1, JOHN DOE 2, ABC)	FILE NO.: 22-C-00319-S4
COMPANY 1, AND ABC COMPANY 2,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendants Costco Wholesale Corporation and Costco Wholesale Membership, Inc (referred to herein as “Defendants”) hereby remove Case No. 22-C-00319-S4 from the State Court of Gwinnett County to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and as grounds for its removal, states as follows:

STATEMENT OF THE CASE

1. On January 18, 2022, Plaintiff Albert Cox filed suit against Defendants in the State Court of Gwinnett County, Civil Action File No. 22-C-00319-S4, this county is within the Atlanta Division of this Court. *See* 28 U.S.C. § 90(c)(1).

2. Defendants were served with the Summons and Complaint for Damages on January 19, 2022. A true and accurate copy of the Summons and Complaint is attached hereto as **Exhibit A**.

3. Defendants timely answered Plaintiff's Complaint for Damages on February 17, 2022. See Answer attached hereto as **Exhibit B**.

4. In his Complaint, the Plaintiff alleges that a Costco Wholesale Store employee negligently performed a tire rotation on his vehicle, causing a motor vehicle collision that resulted in personal injury. See Generally **Exhibit A**.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(A)

5. Removal to this Court is proper under U.S.C. §§ 1332 and 1441 because there is complete diversity between Plaintiff and Defendants, and it is believed that the amount in controversy is greater than \$75,000, exclusive of interest, costs, and attorney's fees.

6. Plaintiff Albert Cox is a citizen and resident of the State of Georgia.

7. Pursuant to 28 U.S.C. § 1332, Defendant Costco Wholesale Corporation is a citizen of Washington. Defendant Costco Wholesale Membership, Inc is a citizen of California.

8. Defendant Costco Wholesale Corporation is incorporated in the State of Washington, and its principal place of business is in Issaquah, Washington, where its headquarters and the bulk of Costco's executive and administrative functions are located. By way of further support, copies of the Washington

Secretary of State and Georgia Secretary of State profiles for Costco Wholesale Corporation are attached hereto as **Exhibits C and D**, respectively.

8. Defendant Costco Wholesale Membership, Inc is incorporated in the State of California, and its principal place of business is in Issaquah, Washington, where its headquarters and the bulk of Costco's executive and administrative functions are located. By way of further support, copies of the California Secretary of State and Georgia Secretary of State profiles for Costco Wholesale Corporation are attached hereto as **Exhibits E and F**, respectively.

9. Under the facts alleged in Plaintiff's Complaint, Defendants do not share a common state citizenship with the Plaintiff in Georgia. Therefore, there is complete diversity between Plaintiff and Defendants in this action.

10. Plaintiff does not pray for a sum certain in the Complaint. However, it appears the amount in controversy exceeds the jurisdictional threshold of \$75,000, exclusive of interest, costs, and attorney's fees, as Plaintiff alleges that he has sustained no less than \$76,597.82 in past medical expenses. Ex. A at ¶ 20.

11. If any question should arise as to the propriety of the removal of this action, Defendants respectfully request the opportunity to present a brief and oral argument in support of their position that the case is removable. *See, e.g., Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S.Ct. 547 (2014) (holding that a defendant's notice of removal need include only a plausible allegation that the jurisdictional threshold is met, and evidence establishing the amount in controversy

is required by 28 U.S.C. § 1446(c)(2)(B) only when the defendant's allegation is challenged).

ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

12. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, orders, and documents from the State Court Action which have been served upon Defendants are being filed with this Notice of Removal.

13. This Notice of Removal has been filed within 30 days of the date that Defendants served with the Summons and Complaint in this matter on January 19, 2022. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) and § 1446(a) because the U.S. District Court for the Northern District of Georgia is the federal judicial district embracing the State Court of Gwinnett County, Georgia, where the State Court Action was originally filed.

15. Defendants given written notice of the filing of this Notice of Removal to the Plaintiffs by notifying Plaintiff's attorney Samuel Johnson. A written notice is being filed with the Clerk of the State Court of Gwinnett County at the same time as the filing of this Notice; a copy of said notice is attached hereto as **Exhibit G**.

16. The undersigned has read this Notice of Removal. To the best of the undersigned's knowledge, information, and belief, after reasonable inquiry, this Notice is well-grounded in fact and is warranted by existing law, and has not been

interposed for any improper purpose, such as to harass, cause unnecessary delay, or a needless increase in the cost of litigation.

CONCLUSION

By this Notice of Removal, Defendants Costco Wholesale Corporation and Costco Wholesale Membership, Inc do not waive any objections that they may have as to service, jurisdiction or venue, or any other defenses or objection they may have to this action. Defendants Costco Wholesale Corporation and Costco Wholesale Membership, Inc intend no admissions of facts, law or liability by this Notice, and expressly reserve all defenses, motion and/or pleas.

WHEREFORE Defendants Costco Wholesale Corporation and Costco Wholesale Membership, Inc pray the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 17th day of February, 2022.

MCGREW MILLER BOMAR & BAGLEY, LLC

/s/ Heather H. Miller

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing pleading upon all parties to this matter via the appropriate efilings system and/or by depositing a true copy of same in the U.S. Mail, proper postage prepaid, addressed to counsel of record as follows:

Samuel Johnson
Samuel Johnson and Associates
12600 Deerfield Parkway
Suite 425
Alpharetta, GA 30004
sjohnson@mrlawman.com

This 17th day of February, 2022.

MCGREW MILLER BOMAR & BAGLEY, LLC

/s/ Heather H. Miller

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